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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,519	03/15/2004	Mark E. Kershaw	075254.0102	9478
7590	11/29/2005		EXAMINER JOHNSON, STEPHEN	
Andreas Grubert Baker Botts L.L.P. One Shell Plaza 910 Louisiana Houston, TX 77002-4995			ART UNIT	PAPER NUMBER
			3641	
DATE MAILED: 11/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,519	Applicant(s) KERSHAW, MARK E.	
	Examiner Stephen M. Johnson	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-47 is/are pending in the application.
4a) Of the above claim(s) 30-36, 38, 39 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28, 29, 37, 40-43 and 45-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 28-47 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election with traverse of the species (1) configurations of figs. 1, 2; (2) armor material type of polyethylene; and (3) method of construction including injection moulding as an integral construction in the reply filed on 5/12/2005 is acknowledged.

Claims 28-29, 37, 40-43, and 45-47 read on the elected species and an action on these claims follows. Claims 30-36, 38-39, and 44 are withdrawn from consideration as being directed to non-elected species.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 28-29, 40-43, and 46-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Komarek et al. (781).

Komark et al. (781) disclose a protective body armour comprising:

- | | |
|---|---|
| a) a skin and honeycomb lining; | see figs. 6A, 6B, or 8A |
| b) cup-shape with concave face; | see figs. 6A or 8A |
| c) a material that is substantially non-deformable; | col. 1, lines 16-29 |
| d) at least one fold line free of the honeycomb lining; | see figs. 6B or 8B |
| e) the fold line being relatively thinner; and | 29 or [60, 62, 64];
col. 5, lines 51-56;
col. 8, lines 6-12 |
| f) cuts along the fold lines. | see fig. 8B |

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komarek et al. (781) in view of Baba et al. (340).

Komarek et al. (781) apply as previously recited. However, undisclosed is a constituent material for the honeycomb structure that is polyethylene material. Baba et al. (340) teach a constituent material for the honeycomb structure that is polyethylene material (col. 2, lines 3-7). Applicant is substituting one type of plastic honeycomb panel for another as explicitly encouraged by both the primary and secondary references (col. 1, lines 16-29 of Komarek et al. and col. 2, lines 3-7 of Baba et al.). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Baba et al. to the Komarek et al. honeycomb structure and have a honeycomb structure that is composed of a different material type.

6. Claims 28-29, 40-42, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Tambussi (291).

Tambussi (291) disclose a protective body armour comprising:

- | | |
|---|---|
| a) a skin and honeycomb lining; | 38a-d; 40a-b; 16a-c |
| b) cup-shape with concave face; | see figs. 1, 7-9 |
| c) a material that is substantially non-deformable; | col. 5, lines 32-39;
col. 11, lines 1-37 |

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- d) at least one fold line free of the honeycomb lining; 24a-d
- e) the fold line being relatively thinner; and col. 5, lines 18-30
- f) cuts along the fold lines. col. 5, lines 18-30

7. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tambussi (291) in view of Esterdahl (509).

Tambussi (291) applies as previously recited. However, undisclosed is a protective structure which is elliptical in platform. Esterdahl teaches a protective structure which is elliptical in platform (see figs. 2-3). Applicant is substituting one shape for a protective structure for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Esterdahl to the Tambussi protective structure and have a protective structure with a different shape.

8. This application contains claims 30-36, 38-39, and 44 drawn to an invention nonelected with traverse in the paper filed on 5/12/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

9. Applicant's arguments with respect to claims 28-29, 37, 40-43, and 45-47 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

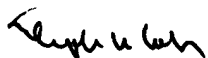
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
November 22, 2005